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INTERNATIONAL PRELIMINARY EXAMINATION REPORT


(PCT Article 36 and Rule 70)

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Applicant's or agent's file reference 08-893722WO	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416)	
International application No. PCT/CA 03/00006	International filing date (day/month/year) 06.01.2003	Priority date (day/month/year) 04.01.2002
International Patent Classification (IPC) or both national classification and IPC A61B5/00		
Applicant CME TELEMETRIX INC. et al.		
<p>1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 5 sheets, including this cover sheet.</p> <p><input type="checkbox"/> This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).</p> <p>These annexes consist of a total of sheets.</p>		
<p>3. This report contains indications relating to the following items:</p> <p>I <input checked="" type="checkbox"/> Basis of the opinion</p> <p>II <input type="checkbox"/> Priority</p> <p>III <input type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p>IV <input type="checkbox"/> Lack of unity of invention</p> <p>V <input checked="" type="checkbox"/> Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p>VI <input type="checkbox"/> Certain documents cited</p> <p>VII <input type="checkbox"/> Certain defects in the international application</p> <p>VIII <input type="checkbox"/> Certain observations on the international application</p>		
Date of submission of the demand 30.07.2003	Date of completion of this report 25.08.2004	
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer Consalvo, D Telephone No. +49 89 2399-7093	



INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No. PCT/CA 03/00006

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1-26 as published

Claims, Numbers

1-12 as published

Drawings, Sheets

1/23-23/23 as published

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
- ☐ the claims, Nos.:
- ☐ the drawings, sheets:

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. **PCT/CA 03/00006**

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	
	No: Claims	1-12
Inventive step (IS)	Yes: Claims	
	No: Claims	1-12
Industrial applicability (IA)	Yes: Claims	1-12
	No: Claims	

2. Citations and explanations

see separate sheet

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/CA03/00006

The examination is being carried out on the following application documents:

Description, pages:

1-26 as published

Claims, No.:

1-12 as published

Drawings, sheets:

1/23-23/23 as published

Re Item V

Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Reference is made to the following documents:

D1: WO-A-0187151

D2: EP-A-0536304

D3: US-A-5886347.

2. Novelty

The present application does not satisfy the criterion set forth in Article 33(2) PCT because the subject-matter of independent method claims 1 and 2 is not novel over the prior art document D1 for the following reasons:

2.1 Independent claim 1

Document D1 discloses, see, e.g., claim 1:

A method for identifying a chemical compound, analysing a chemical composition or investigating a physical change of a sample comprising obtaining spectra of electromagnetic radiation of the sample at two or more than two different temperatures.

Thus D1 seems to disclose all features of claim 1.

2.2 Independent claim 2

D1 discloses, see, e.g., claims 13-17:

A method for identifying a chemical compound, analysing a chemical composition or investigating a physical change of a sample comprising:

- i) collecting one or more than one spectrum of radiation of the sample at a first temperature and averaging the result to obtain a first spectrum, and
- ii) obtaining one or more than one spectrum of radiation of the sample at one or more than one second temperature and averaging the result at each temperature, to obtain one or more than one second spectrum;
- iii) calculating a difference in absorbance between the first and the one or more than one second spectrum; and
- iv) using the difference in the absorbance, identifying a chemical compound, analysing a chemical composition or investigating a physical changes of the sample.

Note : In originally filed claim 2 feature "ii)" is included in feature "i").

3. Dependent claims 3-12

Dependent claims 3 to 12 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty and/or inventive step, being all additional features either known from D1, or already known from spectral analysis methods, see also D2/D3 and the relevant passages cited in the search report.